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In re Application of
Blair et al.
Application No.: 10/573,666
PCT No.: PCT/GB02/03532
Int. Filing Date: 31 July 2002
Priority Date: 02 August 2001
Attorney Docket No.: 762301-1290
For: Telecommunication Interaction Analysis

DECISION

ON

PETITION

This is in response to the petition under 37 CFR 1.137(b) filed on 15 March 2006.

BACKGROUND

This international application was filed on 31 July 2002, claimed an earliest priority date of 02 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 February 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 02 February 2004. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee has not been filed, nor does it appear that petitioner has authorized the basic national fee to be charged to a Deposit Account. Therefore, requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes a statement of unintentional delay. However, in view of the evidence of record, including the Affidavit of Kevin G. Hegebarth, petitioner has not adequately explained the delay in filing the petition and paying the basic national fee between the due date for the basic national fee (02 February 2004) and the time "in January 2006, Andrew discovered the that the above PCT patent application was not filed in the U.S. and

requested an explanation from David." More specifically, petitioner has not reconciled the statement (in paragraph 7) that the abandonment was "discovered" in January 2006, with the statement (in paragraph 8) that an "informal cost estimate in filing a petition to revive" was prepared in March 2004. Furthermore, petitioner has not described why he "did not provide him with the confirmatory instructions" in response to the March 2004 cost estimate; in general, petitioner has not described what effect, if any, the March 2004 cost estimate had on the delay in prosecuting this application. Petitioner also states that in "July 2004, David indicated that this application had not been filed in the U.S. because I did not provide him with the confirmatory instructions," but does not explain the delay in prosecuting this application after receiving this indication from David. Moreover, petitioner has not adequately explained the delay between the time the abandonment was allegedly discovered (January 2006) and the filing of the instant petition on 15 March 2006. For all of these reasons, it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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